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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,503	02/07/2006	Enea Garagnani	MI 6125 (US)	8964
34872	7590	05/05/2008		
Basell USA Inc. Delaware Corporate Center II 2 Righter Parkway, Suite #300 Wilmington, DE 19803			EXAMINER CHOI, LING SIU	
			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			05/05/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/567,503

Applicant(s)

GARAGNANI ET AL.

Examiner

Ling-Siu Choi

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-9, 11, and 13

is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 8, 9, 11 and 13 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948).
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. It is informed that the Office Action dated 07/16/2007 is mistaken as Non-Final rejection due to a typo made in the Office Action Summary. Thus, the Advisory Action dated 04/14/2008 is withdrawn and the present Office Action is made as a second Final Rejection.
2. The Office Action is in response to the Response and Amendment filed 01/17/2008. Claims 10, 12, and 14 were canceled and claims 8-9, 11, and 13 are now pending.

Claim Analysis

3. Summary of Claim 8:

A polyolefin composition comprising		
A	60-85 wt%	a broad molecular weight distribution propylene polymer having a polydispersity index = 5-15 a melt flow rate =20-78 g/10 min [ASTM-D 1238, condition L]
B	15-40 wt%	a partially xylene soluble olefin polymer rubber comprising at least 65 wt% of ethylene
wherein the polyolefin composition comprises a melt flow rate of from 5 to 20 g/10 min		

Claim Rejections - 35 USC § 102

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4. **The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 8-9, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by DeNicola, Jr. et al. (US 5,286,791).

DeNicola, Jr. et al. disclose an impact-modified graft copolymer composition to be used in an inject molding to make an article, comprising (A) 10-90 wt% of graft copolymer, (B) **90-10 wt%** of at least one **propylene polymer having a wide molecular weight distribution**, and (C) **2-40 wt%** of at least one **rubber component**, wherein the **component B** has a **molecular weight distribution of 8-60** and a **melt flow rate of 0.5-50 g/10 min**; the **component C** can be an **ethylene-propylene copolymer rubber** having 30-70% ethylene content (abstract; col. 4, lines 25-31; col. 7, lines 33, 46-48, and 62-63; Examples 1-5-especially line 9; claims 1 and 4). DeNicola, Jr. also disclose that the composition further comprises about 10-100 pph of a filler which can be talc, a calcium carbonate, and silicate (col. 3, lines 25-32; col. 10, lines 36-43). It is noted that the ethylene-propylene copolymer rubber reads on the partially xylene soluble olefin polymer rubber. Thus, the present claims are anticipated by the disclosure of DeNicola et al.

6. Applicants' arguments filed **01/17/2008** have been fully considered but they are not deemed to be persuasive.

"applicant respectfully believes the very broad, generic disclosure of the propylene copolymer material in DeNicola, Jr., et al. clearly does not anticipate Applicant's specifically claimed component (A), let alone the specifically claimed range of 60 to 85% by weight of component (A)" (paragraph bridging pages 6 and 7).

The component claimed in the present claims is referred to the component B instead of component A:

A. Summary of Claim 8

A polyolefin composition comprising

A	60-85 wt%	a broad molecular weight distribution propylene polymer having a polydispersity index = 5-15 a melt flow rate =20-78 g/10 min [ASTM-D 1238, condition L
B	15-40 wt%	a partially xylene soluble olefin polymer rubber comprising at least 65 wt% of ethylene

wherein the polyolefin composition comprises a melt flow rate of from 5 to 20 g/10 min.

B. DeNicola, Jr. et al. (US 5,286,791)

DeNicola, Jr. et al. disclose a copolymer composition comprising (A) 10-90 wt% of graft copolymer, (B) 90-10 wt% of at least one **propylene polymer** having a wide molecular weight distribution, and (C) 2-40 wt% of at least one rubber component, wherein the **component B has a molecular weight distribution of 8-60 and a melt flow rate of**

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0.5-50 g/10 min; the component C can be an ethylene-propylene copolymer rubber having 30-70% ethylene content (abstract; col. 4, lines 25-31; col. 7, lines 33, 46-48, and 62-63; Examples 1-5-especially line 9; claims 1 and 4). DeNicola, Jr. also disclose that the composition further comprises about 10-100 pph of a filler which can be talc, a calcium carbonate, and silicate (col. 3, lines 25-32; col. 10, lines 36-43). It is noted that the ethylene-propylene copolymer rubber reads on the partially xylene soluble olefin polymer rubber.

Comparing claim 8 and the disclosure of DeNicola, Jr. et al., it is noted that the components (B) and (C) of the disclosure of DeNicola, Jr. et al. responses to the components (A) and (B) cited in claim 8 respectively.

In conclusion, The limitations made in the Amendment after Final will not lead to obviating the rejection over DeNicola, Jr. because DeNicola, Jr. do disclose that the component (B) has a melt flow rate of 0.5-50 g/10 min and the amount of the component (B) can be up to 90 wt%. As such, the composition would have melt flow rate around 0.5-50 g/10 min.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on 571-272-1114.

/Ling-Siu Choi/

Primary Examiner, Art Unit 1796

May 1, 2008

